



COUNTY OF ORANGE

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT

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August 25, 2004

Debbie Irvin, Clerk to the Board
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Draft Final Water Quality Control Policy for Developing California's Clean Water Act section 303(d) List

Dear Ms. Irvin:

The County of Orange Resources and Development Management Department has reviewed the draft final CWA 303(d) Listing Policy and Functional Equivalent Document (FED). We have previously provided oral comments on the policy at the public hearing held on February 5, 2004, emphasizing the core purpose of CWA Section 303(d) as a way of identifying high priority water quality problems, and additional detailed written comments on February 18, 2004.

After reviewing the revised Listing Policy and Appendix B: Responses to Comments, we appreciate several of the modifications made and the information provided in the responses to our comments. Additionally, we submit the following comments and recommendations regarding the draft policy for consideration by the Board:

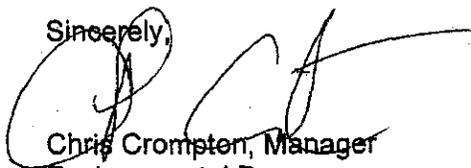
1. Structure of the List -- We believe that the 303(d) list should only include those waters that do not attain water quality standards due to pollutants and for which a TMDL is required. Water bodies for which TMDLs are already completed or where enforceable programs are in place to bring the water into attainment should be placed on separate lists.
2. Section 3.1 has been revised to allow data collected from a known spill to be used in conjunction with other data to demonstrate that there is an exceedence of a water quality standard. The term "spill" should be explicitly defined and how data from known spills will be evaluated should be described further. We do not support the inclusion of raw water quality data from spills in the data set used to evaluate the number of exceedences of water quality standards during the listing process. However, we do support the consideration and evaluation of the frequency, magnitude and extent of spills in conjunction with the evaluation ambient water quality data.
3. The last sentence of section 3.1.5 should be clarified. The term "transplanted animals" should be limited to species native to and currently inhabiting the water body. Currently, the term could be interpreted to mean that bioaccumulation

could be evaluated from non-native or non-occurring species transplanted to the water body.

4. The modifications to Tables 4.1 and 4.2 are a significant improvement from the previous draft and appropriately ensure consistency between evaluations for listing and de-listing water bodies.
5. Section 6.1.5.3 proposes sample collection should be representative of the critical timing that the pollutant is expected to impact the water body. It is well documented that seasonality (dry and wet weather) plays a significant part on pollutant loading. Therefore, it is recommended that when data used to list a water body indicates that the impairment occurs only during specific wet or dry seasonal weather conditions, the listing on the 303(d) list should specify season or condition (such as wet/dry season, storm flow/dry flow conditions) for which the listing applies.
6. Section 6.2.5.6 Natural Sources should not be removed from the final policy. Natural sources of pollution and natural conditions of water bodies can contribute to impairment and should be taken into consideration during the listing process. In particular, natural sources need to be taken into consideration when evaluating certain types of pollutants that frequently have natural origins such as bacteria, selenium and arsenic. Not allowing for the consideration and evaluation of natural sources of impairment will lead to inaccurate listings resulting in costly and time-consuming regulatory and mitigation efforts for naturally occurring conditions.
7. The following prior comment was not addressed in Appendix B: Within section 3.1.8, Adverse Biological Response, the proposed metrics to assess biological degradation should be conducted over a number of years (2-3) to accurately assess the impairment of the community. Using short term measurements may not be indicative of the long term effects of the community.

If you have any questions regarding these comments, please call Amanda Carr at 714-567-6367.

Sincerely,



Chris Crompton, Manager
Environmental Resources